IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.R. No. 1689 of 2005
Date of decision February 19, 2007

Om Parkash

.....Petitioner

Versus

Akhil Bhartia Bhargav Sabha and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. Sanjay Mittal, Advocate
for the petitioner.

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Viney Mittal, J (Oral)

The ejectment petition filed by the landlord Akhil Bhartia Bhargav Sabha has been accepted by the learned Rent Controller. The ejectment of the tenants has been ordered on the ground that the present petitioner, Om Parkash, has been found to be a sub tenant in possession of the demised premises without the written consent of the landlord.

The appeal filed by the tenants has been dismissed by the Appellate authority.

Sh. Sanjay Mittal, learned counsel appearing for the petitioner has contended that in fact Om Parkash (the sub tenant) was an adopted son of the original tenant-Heera Lal. It has also been contended by the learned counsel that an earlier ejectment petition filed by the landlord on the ground of sub letting had been dismissed for non-prosecution and therefore, the present ejectment petition was not even legally maintainable.

I have duly considered the contentions raised by learned

counsel but find no merit in the same.

Both the authorities below have held, on the basis of evidence led by the parties, that Om Parkash was not shown to be adopted son of Heera Lal, the original tenant. As a matter of fact, Om Parkash had been described as son of Ramji Lal in the ejectment petition. Even before the Appellate Authority, Om Parkash had continued to describe himself as son of Ramji Lal. In the present petition also Om Parkash has described himself as son of Ramji Lal. Besides the aforesaid fact, the findings of fact recorded by the authorities below with regard to Om Parkash being not an adopted son of Heera Lal are not shown to be erroneous in any manner.

Even if it be taken that the earlier ejectment petition filed by the landlord on the ground of subletting had been dismissed for non-prosecution, still on account of the fact that no decision on the merits of the controversy had ever been rendered in the proceedings, the ejectment petition filed by the landlord on the ground of subletting cannot be held to be barred in any manner.

No other point has been urged.

Consequently, I do not find any merit in the present petition. The same is dismissed. However, the petitioner is granted three months time to hand over the vacant possession of the premises in question.

(VINEY MITTAL)
JUDGE

February 19, 2007
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